

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BUNGIE, INC.,

Plaintiff,

v.

AIMJUNKIES.COM; PHOENIX DIGITAL
GROUP, LLC; DAVID SCHAEFER; JORDAN
GREEN, JEFFREY CONWAY; AND JAMES
MAY,

Defendants.

No. 2:21-cv-811

**PLAINTIFF BUNGIE, INC.'S
RESPONSE TO DEFENDANTS'
MOTION FOR EXTENSION OF
TIME TO RESPOND TO
PLAINTIFF'S AMENDED
COMPLAINT**

Plaintiff Bungie, Inc. ("Bungie") hereby submits this response to Defendants' Motion for Extension of Time to Respond to Plaintiff's Amended Complaint. Dkt. No. 38 (hereafter "Motion").

On April 27, 2022, the Court granted Defendants' motion to dismiss in part and granted Bungie leave to file an amended complaint "on or before" May 27, 2022. Dkt. No. 33 at p. 13. In that same Order, the Court directed that Defendants' answer or response to any amended complaint "is due within fourteen (14) days after the amended complaint is filed." *Id.*; *see also* Fed. R. Civ. P. 15(a)(3).

Several days after this Court order, Bungie learned about Defendants' purported sale of the AimJunkies.com website—a named defendant of this lawsuit—which necessitated Bungie's filing

1 of the motion for preliminary injunction. *See* Decl. of William C. Rava in Support of Pl.’s Mot.
2 for Prelim. Inj., Ex. 5 (Dkt. No. 35-1). Bungie first tried to avoid seeking the Court’s intervention
3 by asking Defendants about the purported sale, whether it had been completed, and whether it
4 included Defendants’ *Destiny 2* cheat software at issue in this lawsuit on May 11, 2022. *Id.* at
5 Ex. 6. Defendants did not respond. *Id.* at ¶ 7 (Dkt. No. 35). As a result, on May 19, 2022, in order
6 to protect its intellectual property rights, Bungie filed its amended complaint and motion for
7 preliminary injunction, despite its best efforts to avoid the latter. To be clear, because Bungie’s
8 copyright claim had been dismissed from its original complaint, Bungie could not have filed its
9 motion for preliminary injunction without also filing its amended complaint contemporaneously.
10 Dkt. No. 33 at p. 12. And so it did. What Defendants characterize as gamesmanship is only the
11 unsurprising result of Defendants’ choice to purportedly sell the defendant AimJunkies.com and
12 then ignore Bungie’s good faith inquiry about the same.

13 In all events, Bungie filed its amended complaint on May 19, 2022, and thus Defendants’
14 response to the amended complaint was due fourteen days later on June 2, 2022. Dkt. No. 34.
15 Prior to and including June 2, 2022, Defendants did not formally or informally seek to extend the
16 deadline to file a response to the amended complaint. On June 3, 2022, again without first seeking
17 Bungie’s consent, Defendants filed the Motion, improperly noting it for consideration on the same
18 day. Dkt. Nos. 38. Defendants offer no persuasive reason for their failure to either adhere to the
19 Court’s deadline or timely seek an extension.

1 Dated: June 15, 2022

By: /s/ William C. Rava

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